THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24639 of 2006

27.11.2006

Between:

Jaggaiahpet Jamiya Majid Tenants Welfare Association,
Represented by its Vice President, Syed Salamullah, S/o.Syed Asdullah

... Petitioner

AND

The A.P.State Wakf Board, represented by its Chief Executive Officer
And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24639 of 2006

ORDER:

Jaggaiahpet Jamiya Majid Tenants Welfare Association statedly consisting of twenty-eight (28) members filed the instant writ petition, seeking a writ of Mandamus declaring the action of the respondents, namely, A.P.State Wakf Board and Jamiya Masid (Wakf) Management Committee, in not allotting the shops by renewing lease in favour of the members of the petitioner association, as illegal and arbitrary.

The members of the petitioner association were allotted small extents of lands belonging to second respondent (Wakf), on whom they raised pakka RCC rooms and were carrying on business. Allegedly for over twenty-five (25) years, they were in occupation of wakf land paying rents to the wakf. In December 2005, the shops raised by the members of the petitioner association were demolished. When the same was objected to, the first respondent allegedly promised that after construction of new shops, they will be allotted to the members. The respondents completed construction of forty (40) shops admeasuring 10' X 15' and are made ready for allotment. When the members of the petitioner association approached for allotment of such shops, each member was allegedly asked to deposit advance amount of Rs.1,50,000/-. It is further alleged that the second respondent has adopted a secret procedure for allotting new shops denying allotment to the members. Therefore, they filed the instant writ petition.

Learned Counsel for the petitioner submits that Section 56 of the Wakf Act, 1995 (the Act, for brevity) empowers the respondents to renew existing lease and the first respondent, being public authority created under the Act, cannot refuse to exercise the power of renewing the lease in favour of the petitioner association. He also submits that the initial lease granted to the members of the petitioner association also contains a clause enabling renewal of lease and public authority cannot ignore such binding covenant in the lease.

Learned Standing Counsel for Wakf Board opposed the writ petition. He submits that the respondents never promised to allot shops to the members after construction of new complex. Secondly, he submits that under Section 56 of the Act, any lease of wakf property beyond three years is void and, therefore, the members of petitioner

association cannot claim any subsisting right by reason of their alleged possession for over twenty-five years prior to their eviction. He placed reliance on the decision of Division Bench of this Court in **Radhakrishna Rice Mill Company v Jumma Maseedh by its Muthavalli**[1].

The members of the petitioner association seek to enforce the promise allegedly made by the respondents in December 2005 at the time of demolition of the wakf property. Admittedly there was no such promise in writing given by either of the respondents. Therefore, the submission cannot be accepted. Section 56(3) of the Act is only enabling provision to renew the lease/sub-lease but the same does not compel the first respondent to accept the option of the leaseholder for renewal of the lease. In plain terms, Section 56(3) of the Act requires Wakf Board to review the terms and conditions on which the lease is to be renewed in case it is decided to do so. This Court however hastens to add that Section 56(3) of the Act does not confer any right to seek renewal, which can be enforced in a writ petition. As seen from the record, the second respondent issued a notice on 05.10.2006 inviting applications for allotment of shops for different business purposes. Nothing prevents the members of the petitioner association to make application complying with the conditions. Further, any lease granted by the second respondent would be void unless it is made with the previous sanction of the Wakf Board and, therefore, the members of the petitioner association can always approach the first respondent for redressal. In this writ petition, no relief can be granted.

The writ petition is devoid of merits and is accordingly dismissed. No costs.

_____

(**V.V.S.RAO, J**)

November 27, 2006
YS

---

[1] 2002(6) ALD 52 (DB)